



California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
Governor

August 20, 2009

Richard Atwater
Inland Empire Utilities Agency
6075 Kimball Avenue
Chino, CA 91710

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR CHINO GROUNDWATER MANAGEMENT ZONE RECHARGE ACTIVITIES, SAN BERNARDINO COUNTY (ACOE REFERENCE NO. 200300490)

Dear Mr. Atwater:

On June 15, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for maintenance and operation activities in various groundwater recharge basins overlying the Chino Basin in San Bernardino County. Construction activities to initiate groundwater recharge operations in those basins that were considered waters of the United States were authorized in a Certification issued to the Inland Empire Utilities Agency ("IEUA") on June 11, 2003. Discharges to the underlying Chino Basin are authorized under Regional Board Order No. R8-2007-0039, "Water Recycling Requirements for Inland Empire Utilities Agency and Chino Basin Watermaster, Chino Basin Recycled Water Groundwater Recharge Program, Phase I and Phase II Projects, San Bernardino County" ("Order No. R8-2007-0039"). However, the scope of the activities described in that June 11, 2003 Certification, and the scope of Order No. R8-2007-0039, did not address ongoing operation and maintenance activities that resulted in discharges of dredge or fill.

This letter responds to your request for certification that the proposed operation and maintenance activities, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description:

Excavation of sediment, trash and debris in various basins, described in the attached Table 1. Also, diking, ripping, and other earthwork necessary to maximize the

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infiltration rate of the basins' bottom soils. Maintenance and operation may include the installation and service of lysimeters, monitoring wells, and other similar devices and small facilities. The discharges of dredge or fill which may accompany the installation and service of these monitoring devices and facilities may be authorized by complying with the State Water Resources Control Board ("State Board") Certification issued on May 11, 2007 for Nationwide Permit ("NWP") No. 5, Scientific Measurement Devices, and NWP No. 6, Survey Activities. Devices and facilities not otherwise covered under the State Board's Certification are covered under this Certification. The State Board's May 11, 2007 Certification is available at:

www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/nwp2007rev.pdf

The basins shown on Table 1 include facilities that were not addressed in the June 11, 2003 Certification. The additional facilities were not regarded as being subject to the U.S. Army Corps of Engineers ("Corps") jurisdiction under Clean Water Act ("CWA") Section 404 at the time. However, the basins' jurisdictional status has changed since then, requiring a CWA Section 404 permit and a Certification. Therefore, the operation and maintenance of the facilities that were not addressed in the June 11, 2003 Certification are being included in this Certification.

IEUA operates additional basins shown in the attached Table 2, which are currently not regarded as being subject to the Corps' jurisdiction. In the event that those basins' jurisdictional status also changes in the future, this Certification will address those facilities.

Receiving water:	See attached Table 1.
Fill area:	See attached Table 1.
Dredge volume:	Not applicable.
Federal permit:	U.S. Army Corps of Engineers Nationwide Permit No. 33.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. Maintenance and operation activities to maintain "line and grade" are not subject to the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ. However, please be advised that future renewals may alter this situation.



You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act ("CEQA"), the IEUA certified an Environmental Impact Report (EIR) for the Wastewater Facilities Master Plan, Recycled Water Master Plan, and Organics Management Master Plan on June 28, 2002 (State Clearinghouse No. 2002011116).

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR prepared by the lead agency in determining whether to approve a Section 401 Certification. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the EIR prepared for the proposed project in approving this Certification. More specifically, the Regional Board has considered those sections of the EIR relating to water quality. Based on the mitigation proposed in the EIR, and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. Thus, the Regional Board finds that changes or alterations have been required in, or incorporated into the project, which avoid or mitigate impacts to water quality to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 2) A copy of this Certification and any subsequent amendments must be maintained at the project site for the duration of work.
- 3) This Certification expires on August 20, 2014. The Executive Officer may issue up to a 12-month extension upon receipt of a written request from the discharger, received prior to expiration of the Certification.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:



- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at:

www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf



August 20, 2009

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Gerry Salas
Department of Fish and Game – Jeff Brandt
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board, DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

APF:401/certifications/IEUA groundwater ~ 362009-09



Table 1: Basin Locations and potential area affected.

Basin Name	Location (latitude/longitude)	Area of Waters of the U.S. potentially affected. (acres)
7 th Street	34 deg. 05 min. 24.4 sec. N/-117 deg. 37 min. 57.2 sec. W	6.3
8 th Street	34 deg. 05 min. 15 sec. N/-117 deg. 37 min. 57 sec. W	14.9
Banana	34 deg. 05 min. 41 sec. N/-117 deg. 29 min. 50 sec. W	6.9
Brooks	34 deg. 03 min. 39.0 sec. N/-117 deg. 42 min. 41 sec. W	7.5
Declez	34 deg. 01 min. 49 sec. N/-117 deg. 30 min. 08 sec. W	14.8
Ely 1	34 deg. 02 min. 06 sec. N/-117 deg. 37 min. 03 sec. W	8.9
Ely 2	34 deg. 02 min. 06 sec. N/-117 deg. 36 min. 48 sec. W	9.8
Ely 3	34 deg. 02 min. 06 sec. N/-117 deg. 36 min. 32 sec. W	9.8
Etiwanda Debris	34 deg. 08 min. 55 sec. N/-117 deg. 30 min. 46 sec. W	15.5
Grove	34 deg. 00 min. 46 sec. N/-117 deg. 37 min. 08 sec. W	10
Hickory	34 deg. 05 min. 33 sec. N/-117 deg. 30 min. 46 sec. W	10.1
Jurupa	34 deg. 02 min. 59 sec. N/-117 deg. 30 min. 42 sec. W	37.15
Montclair 1	34 deg. 06 min. 55 sec. N/-117 deg. 41 min. 34 sec. W	7.5
Montclair 2	34 deg. 07 min. 10 sec. N/-117 deg. 41 min. 33 sec. W	11
Montclair 3	34 deg. 07 min. 49 sec. N/-117 deg. 41 min. 19 sec. W	4.5
Montclair 4	34 deg. 08 min. 05 sec. N/-117 deg. 40 min. 57 sec. W	6.0
RP3 Cell 2	34 deg. 02 sec. 38 min. N/-117 deg. 28 min. 21 sec. W	8.5
San Sevaine 1	34 deg. 08 min. 27 sec. N/-117 deg. 29 min. 51 sec. W	12.2
San Sevaine 2	34 deg. 08 min. 34 sec. N/-117 deg. 29 min. 34 sec. W	8.0
San Sevaine 3	34 deg. 08 min. 45 sec. N/-117 deg. 29 min. 27 sec. W	5.3
San Sevaine 4	34 deg. 08 min. 51 sec. N/-117 deg. 29 min. 26 sec. W	1.0
San Sevaine 5	34 deg. 08 min. 57 sec. N/-117 deg. 29 min. 24 sec. W	20.7
Turner 1	34 deg. 04 min. 32 sec. N/-117 deg. 35 min. 57 sec. W	7.8
Turner 2	34 deg. 04 min. 24 sec. N/-117 deg. 35 min. 58 sec. W	6.8
Upland	34 deg. 08 min. 14 sec. N/-117 deg. 41 min. 02 sec. W	10
Victoria	34 deg. 07 min. 50 sec. N/-117 deg. 30 min. 22 sec. W	17.1



Table 2: Waters of the State that are not subject to the Corps' jurisdiction.

Basin Name	Location (latitude/longitude)	Area of potential Waters of the U.S. (acres)
College Heights East	34 deg. 06 min. 22 sec. N/-117 deg. 41 min. 00 sec. W	5.0
College Heights West	34 deg. 07 min. 01 sec. N/-117 deg. 41 min. 47 sec. W	4.6
Etiwanda Conservation Ponds	34 deg. 09 min. 11 sec. N/-117 deg. 30 min. 28 sec. W	21
Lower Day	34 deg. 01 min. 01 sec. N/-117 deg. 37 min. 49 sec. W	14.6
RP 3 Cells 1, 3, and 4	34 deg. 02 min. 38 sec. N/-117 deg. 28 min. 30 sec. W	22.6
Turner 3	34 deg. 04 min. 31 sec. N/-117 deg. 35 min. 58 sec. W	3.0
Turner 4	34 deg. 04 min. 31 sec. N/-117 deg. 35 min. 41 sec. W	7.2

